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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/587,185

07/25/2006

Kiyoshi Hirakawa

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09/18/2009

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EXAMINER

MOYER, DALE S

ART UNIT

PAPER NUMBER

3664

NOTIFICATION DATE

DELIVERY MODE

09/18/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentmail@whda.com

Office Action Summary	Application No. 10/587,185	Applicant(s) HIRAKAWA ET AL.	
	Examiner Dale Moyer	Art Unit 3664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
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| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. In an Amendment received May 19, 2009, Applicant amended claims 1 and 2 and traversed claims 1-3. In a first argument, Applicant alleges that the Office Action mailed on March 4, 2009 mischaracterizes the teachings of cited prior art. In a second argument, Applicant asserts that the cited prior art does not teach or suggest all of the claimed elements and limitations in the claims as amended.
2. In regards to Applicants first argument regarding the alleged mischaracterization of the cited prior art, has been considered and is not persuasive. See the below mentioned section entitled "Claim Rejections - 35 USC § 102" for a detailed explanation.
3. Applicant's second argument with respect to claims 1-3 has been considered but is moot in view of the new ground(s) of rejection.

Claim Objections

4. Claim 1 is objected to because of the following informalities: the limitation "the indication state when the motor is not driven" in lines 9-10 has insufficient antecedent basis in the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regards to claim 1, the phrase "...at least one automatic machine having a motor or a brake for holding a driving shaft connected to the motor..." renders the claim indefinite. That is, the automatic machine, according to the preamble, includes either a brake or a motor. However, both a brake and a motor are included in the invention as claimed. Therefore, the claim is indefinite because the claim includes at least one element excluded by the preamble and because the relationship between the motor and the brake (both of which, according to the preamble, are for "holding" a driving shaft) is unclear.

Further, the phrase "...the motor is driven by selecting an indication state other than the indication state when the motor is not driven..." renders the claim indefinite. That is, it is unclear how the motor is driven by selecting an indication state. As best understood by the Examiner, the indication state is indicative of an operating state of the at least one automatic machine.

Still further, the claim is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: an apparatus for selecting and indication state of the automatic machine and/or an apparatus for selecting an operation state of the automatic machine.

In regards to claim 2, the phrase "when the driving power is not supplied to the brake releasing unit" renders the claim indefinite. That is, it is understood from claim 1 that the motor is driven and the brake releasing unit is [not] supplied with power to release the brake. As such, it is unclear how the brake releasing unit is "driven".

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Shimogama et al. (United States Patent 6,294,887).

In regards to claim 1, Shimogama et al. disclose an automatic machine control device, which controls at least one automatic machine having a motor or a brake for loading a driving shaft connected to the motor, the automatic machine control device comprising: a brake releasing unit (Fig. 1, abstract) that releases the brake when the motor is not driven (column 3, lines 56-63 and column); and a brake release indication unit (Fig. 2, element 5) that is provided on the automatic machine or in the vicinity of the automatic machine, the brake release indication unit indicates that the brake is ready to be released by the brake releasing unit, wherein the brake release indication unit also serves as a driving power indication unit when the motor is driven by selecting an indication state other than the indication state when the motor is not driven, said motor is not driven when the brake releasing unit is supplied with power so that the brake is released (column 1, lines 1-35; column 3, lines 50-63; column 4, lines 20-25).

The Examiner notes that the brake release indication unit taught by Shimogama et al. has at least two states. In a first state the brake release indication unit is "lighted-on" and in a second state, the brake release indication unit is not "lighted-on". As, one

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of ordinary skill in the art would appreciate, in said first state, the brake release indication unit and/or driving power indication unit indicates that the motor is not driven. Said person would also appreciate that in said second state (Applicants "other state"), the brake release indication unit and/or the driving power indication unit indicates that the motor is driven and that the brake is ready to be released by the brake releasing unit.

Further, the Examiner notes that while Shimogama et al. does not "*specifically*" teach that the indication unit indicates that *the brake is ready to be released* by the brake releasing unit. However, one of ordinary skill in the art would understand that in when the brake release indicator is in said second state (not lighted-on), the brake is inactive and therefore ready for activation.

In regards to claim 2, Shimogama et al. disclose the machine control device as applied to claim 1 above, wherein the driving power indication unit serves as the brake release indication unit when the motor is not driven by selecting an indication state other than the indication state when the motor is driven, said motor is driven when the driving power is not supplied to the brake releasing unit (column 1, lines 45-47).

In regards to claim 3, Shimogama et al. disclose the automatic machine control device as applied to claim 1 above, wherein the automatic machine is a robot and the automatic machine control device is a robot control device (column 3, lines 65-67).

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dale Moyer whose telephone number is (571)270-7821. The examiner can normally be reached on Monday through Thursday from 10AM to 4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi H. Tran can be reached on (571)272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dale Moyer/
Examiner, Art Unit 3664

/KHOI TRAN/
Supervisory Patent Examiner, Art Unit 3664